

**MOTOR VEHICLE DEALER BOARD  
RULEMAKING MINUTES  
February 25, 2016**

A rulemaking hearing was held at the Department of Revenue offices, Lakewood, Colorado.  
The following persons were present:

**BOARD MEMBERS:**

Anthony Brownlee  
Robert Endter  
Justin Franks  
Michael Jorgensen  
Christopher Langley  
Stan Martin  
Jason Wagner

**MEMBERS ABSENT:**

Joseph Gebhardt  
Deborah Thompson

**SENIOR DIRECTOR OF  
ENFORCEMENT:  
EXECUTIVE SECRETARY:**

Bruce Zulauf

**LEGAL ASSISTANT:**

Leland BeBee

**DEPT OF REVENUE,  
AID, ENFORCEMENT  
DIVISION STAFF:**

Matt Heap  
Chris Rouze  
Martin Kenney  
John Opeka  
Melissa DeBruin  
Wendy Spaulding  
Arleen Criddell-Tapanen

**ATTORNEY GENERAL'S OFFICE:**

Y.E. Scott

**VISITORS:**

Saul Larson, DORA  
Pat Watson, TrueCar  
Rick Wynkoop, Esq.  
Jim Bode, J. Bode Used Cars, Inc.  
Michael Dommermuth, CADA  
Steve Perkins, Stakeholder  
John Schenden, Stakeholder  
Karyn Wrye, National Auto Auction Association  
Sam Casey, Cox Auto, Inc.  
Heather Joyce, Insurance Auto Auctions  
John Santarossa, Insurance Auto Auctions  
Tammi McCoy, CADA  
Eric Hartsough, Dealer Services

President, Jason Wagner, opened the Rulemaking hearing of February 25, 2016 at 9:03 a.m.

Mr. Wagner determined that a quorum of the Board was present and called for a motion to open the Hearing to consider proposed revisions to 1CCR 205-1, Regulation 12-6-118 (3) (i) dealing with Motor Vehicle material particulars disclosure requirements, Powersports Vehicles material particulars and 1CCR 205-2, Regulation 12-6-520 (3) (h) dealing with Powersports Vehicles material particulars disclosure requirements. The motion was made and passed unanimously.

Mr. Wagner stated that the purpose of today's hearing is to hear views of all interested parties of the public. The Rulemaking Hearing will close after the Board has heard the Division and the public's comments and any received written submissions presented in the course of the Hearing. The Board will then publicly deliberate upon the entire rulemaking record before it makes any decisions on any of the proposed revisions to the rules. The Board may decide either to:

- Adopt completely the proposed revisions to the rules as presented by the Division; or
- Adopt proposed revisions to the rules as presented by the Division with some changes; or
- Table the Board's decision to a later date; or
- Reject the proposed revisions to the rules as presented by the Division and keep the current rules in place in their current form.

Mr. Zulauf presented the full rulemaking record and gave a brief description of the contents. The Division's goal is to propose simple, effective and enforceable rules that do not adversely affect the industry's ability to be successful but to keep the paramount issue of consumer protection at the forefront. The Division supports the Attorney General's revisions and finds that the changes do not impact the overall concept of what the Division and stakeholders agreed to in principle.

Ms. Scott suggested the Board make a motion to accept a standing order to make grammatical corrections – passed unanimously.

Ms. Scott suggested the following:

- A1 – A4 add the word “motor” in front of “vehicle” throughout the rule.
- A4 – remove “on specific terms”
- B6 – after Vin number insert “or from any other source”
- B10 – delete the word “highly”
- E – change “immediately” to “at the time of sale”

Mr. Wagner gave instructions on how the public forum will proceed and opened the floor for public comment:

Mr. Todd O'Connell, CIADA, requested that the following:

- “mechanical” be excluded from the proposed regulation
- “Touch-up paint or paint less dent repair for minor scratches or dings

Michael Dommermuth, CADA, requested the following changes:

- Exclude the term “generally” in the title and text of Section C
- In Section E insert the word “separate” before “written document”
- Only sellers signature should be on disclosure
- B7 – remove “sustained damage” since it is already in B2

Ms. Tammi McCoy, CADA, requested the following changes:

- B9 – should “VIN number” be referenced

Mr. Dommermuth – requested the addition of the length of time records should be retained by dealers.

- C2 – add at the end of the sentence “provided that these repairs have been done with components that are functioning as expected and reasonably comparable to the original manufacturer’s specifications”

There was a general discussion of VIN numbers and identifying rental cars.

Mr. Steve Perkins suggested the following:

- B9 – add “state issued ID” to the language

Ms. Karyn Wrye, NAAA, stated that she supports the comments and position of IAA

Mr. Rick Wynkoop, Esq., concurs with Ms. Scott’s proposed changes. He also stated the following:

- He does not concur with paint less dent repair addition
- He does not concur with dealers creating a “safe harbor” list of what should be disclosed
- If the word “generally” is omitted, another word should be incorporated in its place
- Does not agree with “mechanical” being excluded from proposed regulation
- Record retention – should be kept little longer than three years
- Agrees consumer’s signature should be on form
- B7 – add “been altered” vs. “sustained damage”

There was a general discussion between Mr. Wynkoop and Board about proposed changes.

Ms. Heather Joyce, Esq., Insurance Auto Auctions stated that many of their comments/concerns were addressed and clarified by the discussion that has taken place today. Ms. Joyce requested that the Wholesale Auto Auction Association be included in future stakeholder meetings.

The Division subject matter expert, Mr. Matt Heap addressed the Board. Mr. Heap gave a brief description of his duties in the Division as the Agent in Charge of Investigations.

Mr. Heap suggested the following:

- Blanket exclusion of paint less dent repair, could result in a varying degree of material damage, material particular issues.
- Exclusion of “mechanical” from rule creates slippery slope as both minor and major mechanical issues may exist and should be disclosed to the buyer.
- There is a statute regarding record retention regulation Colorado Revised Statute §6-17-104.
- Merely knowing the VIN number of a vehicle does not obligate dealers to do an inspection of the vehicle’s history. The Division investigates the knowledge the dealers and auctions possess at the time they sell the vehicle.
- The Division concurs with having a separate written document used by dealers for PDR.
- The Division concurs with including Insurance Auto Auction in future stakeholder meetings.
- Referencing Spedding Case, the Division concurs with the use of “buyer” and/or “purchaser” vs. “consumer”.

The Division believes that the proposed rule by the Division and revisions presented by Ms. Scott be adopted by the Board.

Board took a 10 minute break.

There was a general discussion of written disclosure list, salvage titles, and PDR lists.

Mr. Wagner called for a motion to close the public Rulemaking Hearing so the Board can deliberate on proposed revisions to 1CCR 205-1, Regulation 12-6-118 (3) (i) dealing with Motor Vehicle material particulars disclosure requirements, Powersports Vehicles material particulars and 1CCR 205-2, Regulation 12-6-520 (3) (h) dealing with Powersports Vehicles material particulars disclosure requirements. A motion was made to close the public Rulemaking Hearing for deliberations on the proposed revisions to the rules – passed unanimously.

Mr. Wagner called the Rulemaking Hearing deliberations to order.

**1CCR 205-1, Regulation 12-6-118 (3) (i) dealing with Motor Vehicle material particulars disclosure requirements**

A motion was made to accept the re-ordering of layout from “A-E to E-A” – passed unanimously.

A motion was made to accept all redlined changes to motor vehicle and Powersports rule – passed unanimously.

A motion was made to accept the re-ordering of layout from “A-E to E-A” to include the Powersports rule – passed unanimously.

A motion was made to change E2 to read “been altered” instead of “sustained damage” to cover #7 in motor vehicles and #10 in Powersports – passed unanimously.

A motion was made to insert “Powersports” in front of vehicle in #10 – passed unanimously.

A motion was made to insert “state ID” after (VIN) and before “any other source” in # B9 – passed unanimously.

A motion was made to change A5 to define “buyer” to include a retail consumer or “dealer” in both the Motor Vehicle and Powersports rules – passed unanimously.

**1CCR 205-2, Regulation 12-6-520 (3) (h) dealing with Powersports Vehicles disclosure requirements**

A motion was made to adopt the proposed revisions and changes to 1CCR 205-1, Regulation 12-6-118 (3) (i) dealing with Motor Vehicle material particulars disclosure requirements and 1CCR 205-2, Regulation 12-6-520 (3) (h) dealing with Powersports Vehicles material particulars disclosure requirements, as proposed and publicly noticed by the Auto Industry Division, along with the changes as agreed upon by a majority vote of the Board – passed unanimously.

Meeting adjourned at 12:20 p.m.

*(Note: The Minutes of the Motor Vehicle Dealer Board summarize the contents of the meeting. They are not verbatim transcripts and are based principally upon the digital recording of the meeting and upon the later collaboration of staff attendees to ensure that the summary faithfully captures the matters before the Board and the actions the Board took. The digital recording of the meeting is a permanent record of the Board, retained in the electronic filing system of the Auto Industry Division, and is available as a resource for review, as needed.)*

Bruce Zulauf  
Executive Secretary